

STATE OF MICHIGAN
COURT OF APPEALS

In re TABLES, Minors.

UNPUBLISHED
May 10, 2016

No. 329415
Wayne Circuit Court
Family Division
LC No. 04-432575-NA

Before: BOONSTRA, P.J., and METER and BECKERING, JJ.

PER CURIAM.

Respondent appeals as of right the orders terminating her parental rights to two minor children, AT and XT. Her rights to AT were terminated under MCL 712A.19b(3)(g) (relating to proper care or custody), (j) (relating to risk of harm), and (l) (relating to prior terminations).¹ Her rights to XT were terminated under MCL 712A.19b(3)(g), (i) (relating to prior terminations and attempts to rehabilitate), and (j).² We affirm.

The petition requesting that the court take jurisdiction over AT, and terminate respondent's parental rights to AT, was filed on February 26, 2015. The petition requesting that the court take jurisdiction over XT, and terminate respondent's parental rights to XT, was filed on June 15, 2015.

Respondent argues that the court clearly erred when it found that termination of her parental rights would be in AT's and XT's best interests. We disagree.

¹ The court's ruling on the record was somewhat unclear but its order of April 23, 2015, set forth the statutory grounds. We note that subsection *l* has recently been ruled unconstitutional by this Court. See *In re Gach*, ___ Mich App ___; ___ NW2d ___ (2016) (Docket No. 328714). However, respondent does not challenge the statutory grounds for termination and, at any rate, other subsections properly apply.

² The order terminating respondent's parental rights to XT also lists MCL 712A.19b(3)(k) as a statutory ground for terminating respondent's parental rights, but, from context, that appears to be the statutory ground used by the court to terminate the unidentifiable father's rights to XT.

This Court reviews the trial court's determination regarding best interests for clear error. *In re White*, 303 Mich App 701, 713; 846 NW2d 61 (2014). "A trial court's decision is clearly erroneous [i]f although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re Olive/Metts Minors*, 297 Mich App 35, 41; 823 NW2d 144 (2012) (citations and quotation marks omitted; alteration in original).

"The trial court must order the parent's rights terminated if the Department has established a statutory ground for termination by clear and convincing evidence and it finds from a preponderance of the evidence on the whole record that termination is in the children's best interests." *In re White*, 303 Mich App at 713; see also MCL 712A.19b(5).³ To make its best-interests determination, "the court may consider the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts*, 297 Mich App at 41-42 (citations omitted). Further considerations may include "a parent's history of domestic violence, the parent's compliance with his or her care service plan, the parent's visitation history with the child, the children's well-being while in care, and the possibility of adoption." *In re White*, 303 Mich App at 714.

Placement with a relative weighs against termination. *In re Olive/Metts*, 297 Mich App at 43. In addition, "the trial court has a duty to decide the best interests of each child individually." *Id.* at 42.

Respondent does not allege that the court failed to decide the best interests of each child individually or failed to consider the children's placement with their maternal aunt in making its best-interests determinations. Nevertheless, we note that the court did both. It entered separate termination orders for AT and XT and made best-interests determinations for each child. Although the court, in making its decision to terminate respondent's parental rights to XT, considered the testimony and evidence presented in the proceedings before petitioner filed its petition regarding XT, "a court may take judicial notice of its own files and records" *In re Jones*, 286 Mich App 126, 129; 777 NW2d 728 (2009). Further, the court explicitly acknowledged that the children's relative placement weighed against termination, but concluded that termination would still be in each child's best interests because of respondent's substance abuse history and the children's need for permanency.

Moreover, the evidence presented supported the court's best-interests determinations. Respondent lost her parental rights to seven other children as a result of substance abuse issues. When asked if she had been offered services before her rights had been terminated in the past, she replied in the affirmative. Specifically, she received parenting classes and substance abuse

³ MCL 712A.19b(5) states: "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made."

therapy. Also, respondent completed a residential treatment program when she realized she was pregnant with AT.

After being sober for 3 ½ years, respondent relapsed in November 2014. She said that, before AT's removal, she was getting high at least once a week. She stated, "I was getting high[;] I can't even tell you how many times a day I was getting high." She also confirmed that she tested positive for cocaine in February 2015 and that she used cocaine during her pregnancy with XT.

Respondent did complete a 90-day residential treatment program and enter supportive transitional housing. Lashone Cox, her therapist at the residential treatment program, testified that respondent could be successful in overcoming her substance abuse issues "if she continues on in outpatient and receives all of the services and therapy that's necessary" However, respondent tested positive for alcohol on May 7, 2015, and for THC on July 7, 2015. The facts as a whole, including respondent's history, demonstrate that, despite opportunities for respondent to benefit from services, respondent's inability to maintain sobriety prevents her from providing the young children with the stability and permanence they need. Thus, the court did not clearly err when it determined that it would be in AT's and XT's best interests to terminate respondent's parental rights.

Affirmed.

/s/ Mark T. Boonstra
/s/ Patrick M. Meter
/s/ Jane M. Beckering